

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

PHYLLIS LATKA,)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 7:14-CV-10-FL
DR. DAVID MILES and)	
NEW HANOVER REGIONAL)	
MEDICAL CENTER,)	
Defendants)	

ORDER GRANTING MOTION TO STAY DISCOVERY

THIS CAUSE came on before the Court on Motion of Defendant New Hanover Regional Medical Center (“NHRMC”) for an Order to stay discovery, including the conference of the parties under Fed. R. Civ. P. 26(f) and initial disclosures under Fed. R. Civ. P. 26(a), pending resolution of NHRMC’s Pre-Answer Motion to Dismiss. The matter is ripe for adjudication.

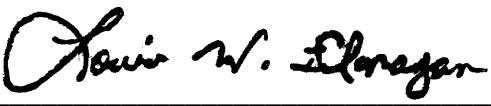
On 14 May 2014, NHRMC filed a Pre-Answer Motion to Dismiss, and on 10 April 2014, Defendant Dr. David Miles filed a Motion to Dismiss. NHRMC timely requested a stay of discovery, including the conference of the parties under Fed. R. Civ. P. 26(f) and initial disclosures under Fed. R. Civ. P. 26(a). The Court may properly exercise its discretion pursuant to Rule 26(c) to issue a stay of discovery pending resolution of dispositive motions. Factors the Court looks to in determining whether to issue a stay include the potential for the dispositive motion to terminate all the claims in the case or all the claims against particular defendants, strong support for the dispositive motion on the merits, and irrelevancy of the discovery to the dispositive motion.

In examining those factors as applied to this case, the Court determines that a stay of discovery is warranted. The pending motions to dismiss will be fully dispositive if they find

favor with the Court. NHRMC further demonstrated support for its motion, raising significant issues, including lack of subject matter jurisdiction, lack of standing, and the failure to include a Rule 9(j) certification required in medical malpractice actions, for the Court's consideration.

Based upon the foregoing, the Court finds that a stay of discovery is warranted. Accordingly, NHRMC's Motion to stay discovery (DE-30) is GRANTED. All discovery in this matter, including the conference of the parties under Fed. R. Civ. P. 26(f) and initial disclosures under Fed. R. Civ. P. 26(a), is stayed until NHRMC's Pre-Answer Motion to Dismiss is ruled upon. If necessary following disposition of NHRMC's Pre-Answer Motion to Dismiss, the parties shall, within twenty (20) days thereafter, confer regarding a discovery plan and file a proposed discovery plan and exchange mandatory initial disclosures both within twenty-one (21) days after said conference.

SO ORDERED, this the 30th day of June, 2014.

By: 

LOUISE W. FLANAGAN
United States District Court,
Eastern District of North Carolina